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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,478	03/18/2005	Kazuyo Mukai	F-8627	8458

28107 7590 04/11/2007
JORDAN AND HAMBURG LLP
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NEW YORK, NY 10168

EXAMINER

HOGAN, JAMES SEAN

ART UNIT PAPER NUMBER

3752

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/528,478	MUKAI, KAZUYO	
	Examiner	Art Unit	
	James S. Hogan	3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/18/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim 12 recites the limitations "the open/close operation", "the vertical movement", "the rotational movement" and "the rotation" in the whole of the claim. There is insufficient antecedent basis for these limitations in the claim.

Claim 14 recites the limitations "the mounting of the upper cap" in line 4 of the claim. There is insufficient antecedent basis for these limitations in the claim.

Claim 17 recites the limitations "the surface treatment" in line 3 of the claim. There is insufficient antecedent basis for these limitations in the claim.

Claim 19 recites the limitations "the cover" in line 3 of the claim. There is insufficient antecedent basis for these limitations in the claim

Claim 21 recites the limitations "the staying water" in line 3 of the claim. There is insufficient antecedent basis for these limitations in the claim

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12-14, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,738,996 to Malek et al.

Regarding claim 12, as best understood, Malek et al teaches a shower nozzle having a holding portion (12) and a spraying portion (18), the spraying portion having a plurality of spray holes (106) and is connected via an open/close valve (160) to the holding portion (12), the valve and spray portion detachable to the holding portion at one end, a push button (48) is mounted on the other end of the spray head and has a shaft (160) that performs the open/close operation of the valve, the shaft vertically movable with the vertical movement of the button, and has variable control. Malek et al does not teach the valve shaft rotating as it is turning. As per claim 13, the button and valve are detachably mounted to the holding portion. As per claim 14, an upper cap (42) is detachable mounted (See Figure 3) and the push button is selectable. As per claim 18, an upper ring (42) is mounted on the distal end portion of the water-spraying portion. As per claim 19, Malek et al teaches the nozzle body being rod shaped, a lower ring (40) mounted on a lower portion, and a cover (36) arranged between the upper ring and the lower ring. Malek et al lacks rotational movement of the valve as it is

being pressed, however it would have been obvious to one having ordinary skill in the art at then time the invention was made to have incorporated rotational valve action associated with rotation of the shaft of a push button valve of Malek et al order to preserve the flow within the conduit by dislodging any foreign debris that might make it past any filtration devices within the plumbing leading up to the spraying portion.

Allowable Subject Matter

Claims 15-17, 20, and 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows:

U.S. Patent No. 4,193,553 to Kelly

U.S. Patent No. 5,433,383 to Chan et al

U.S. Patent No. 5,199,639 to Kobayashi et al.

U.S. Patent No. 6,059,200 to Chou

U.S. Patent No. 6,145,757 to Knapp

U.S. Patent No. 6,622,945 to Wu et al

U.S. Patent No. 5,735,467 to Lee

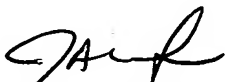
U.S. Patent No. 5,109,553 to Kisimoto

Art Unit: 3752

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Hogan whose telephone number is (571) 272-4902. The examiner can normally be reached on Mon-Fri, 7:00a-4:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Joseph A. Kaufman
Primary Examiner
4/2/07

JSH
3/30/2007